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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/614,436

07/07/2003

Roy Higgs

2612

7590

11/29/2006

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EXAMINER

FAULK, DEVONA E

ART UNIT

PAPER NUMBER

2615

DATE MAILED: 11/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/614,436

Applicant(s)

HIGGS, ROY

Examiner

Devona E. Faulk

Art Unit

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 61-80 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 61-80 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

The applicant's RCE was received and the amendment entered.

#### ***Response to Remarks***

1. The applicant has cancelled previous presented claims 41-60 and added new claims 61-79.
2. An interview was held between the applicant's representative and the examiner on 10/18/2006. The applicant has amended to overcome Higgs as applied to the second building section as recited in the previous presented claims.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. **Claims 71 and 77** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 71 and 77 recites, "wherein said second building is substantially built into said parking garage". The specification discloses on page 10, lines 16-19, that the projector housing extending along one end of the parking garage. This does not equate to "built into said parking garage".

#### ***3Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 61-63,72-74,76,79 and 80** are rejected under 35 U.S.C. 103(a) as being unpatentable over Higgs (Higgs (Extensions to and Refurbishment of Menlyn Park Shopping Centre, Pretoria) (August 2000, see pg. 14 of source code) in view of Braun (US 6,414,789).

Claims 61 and 74 share common features.

Regarding **claims 61 and 74**, Higgs discloses a shopping mall or other complex comprising:

a retail shopping structure comprising at least a first building having a roof extending upward to at least a first elevation (Menlyn park shopping center, page 1 of article, Figure 6);

at least one multi-level parking garage associated with said shopping mall or other complex, wherein said parking garage has a top parking level extended to a second elevation, wherein said first elevation is higher than said second elevation and wherein said top parking level has a first and second end (page 1 of article disclose a mall with at least 3 levels and a parking garage accessible directly from each level of the mall, Figure 6);

a second building area for housing a projector substantially constructed on top of said parking level, and located at said first end, wherein said second building extends upward from said top parking level and extends to a third elevation (Figure 6, the tent area reads on building housing a projector);

a screen extending upward from said top parking level, wherein said screen is located on a second end of said parking garage, opposite said first end, wherein said screen extends upward from said second end of said parking garage to a fourth elevation (Figure 6 discloses a screen as claimed);

wherein said first, third and fourth elevations are extended substantially above said second elevation, such that said screen, and said first and second buildings help to substantially block the view of the screen from the outside (Figure 6 ; Higgs teaches the first building (shopping center or mall), the second building ( tent area from which the movie is being projected from) and the screen. They obviously form a barrier, each at least from their respective sides that would have a block view for those on the main street. By mere fact that these elements cannot be seen through imply that they form a barrier.

Higgs fails to disclose that the area that houses the projector is a building.

Braun discloses a projector building that houses a projector ( 1 building, 3 projector Figure 1).

It would have been obvious to modify Higgs by having the second area be a building in order to provide protection for the projector against environmental hazards, i.e. weather.

Regarding **claim 62**, Higgs as modified by Braun discloses wherein said parking garage and said first building are separate structures and at least one bridge connects said parking garage with said first building (see Higgs as applied above).

Regarding **claim 63**, Higgs as modified by Braun discloses wherein a restaurant and/or other establishment is provided in said second building, wherein persons in said restaurant and/or other establishment can view said screen (Higgs, page 2, under Re-merchandising section) and further discloses a Roman amphitheatre styled events center including stadium seating (Higgs, Picture No. 4, page 2; Picture No. 7, top of page 4; See Re-merchandising section, page 2).

Regarding **claims 72 and 79**, Higgs as modified by Braun discloses wherein a second parking garage is provided in association with said shopping mall or complex, wherein an events center is provided on top of said second parking garage. Higgs further depicts the events center is on top of the second parking garage (Figure 5 and 7).

Regarding **claims 73 and 80**, Higgs as modified by Braun discloses wherein a restaurant and/or other establishment is provided in association with said events center, such that persons in said restaurant and or other establishment can view events occurring at said events center (Higgs page 2, under Re-merchandising section) and further discloses a Roman amphitheatre styled events center including stadium seating (Picture No. 4, page 2; Picture No. 7, top of page 4; See Re-merchandising section, page 2).

Regarding **claim 76**, Higgs as modified by Braun Herzfeld discloses wherein said screen extends upward from a peripheral edge of said parking garage, such that the back side of said screen faces away from the top parking level and away from said

second building. All elements of claim 60 are comprehended by the rejection of claim 51 (see Higgs as applied above).

7. **Claim 65-70 and 78** are rejected under 35 U.S.C. 103(a) as being unpatentable over Higgs (Higgs (Extensions to and Refurbishment of Menlyn Park Shopping Centre, Pretoria) (August 2000, see pg. 14 of source code) as applied to claim 61 and 74 above and in view of Braun (US 6,414,789) as applied to claim 61 and 74 above in view of Herzfeld et al. (US 3,131,381).

Regarding **claim 65**, Higgs as modified by Braun discloses a sound system (Higgs, page 3 of article).

Higgs fails to explicitly disclose a short range radio sound system with at least on transmitter provided on said top parking garage, to provide sound for vehicles parked on said top parking level, wherein said system is adapted for use in connection with a drive in movie theater located on said parking garage, and wherein said short range radio sound system is adapted so that only cars located on or substantially near said top parking level of said parking garage are able to receive transmissions from said transmitters.

Herzfeld discloses a short-range radio information system (column 4, lines 14-24) and an outdoor theater system (Figure 1) including a control means (variable inductance coil; Figures 1 and 5; column 3, lines 3-28) that controls the frequency adjustment of transmitters. Herzfeld discloses additionally that the sound system comprises multiple on or above ground transmitter intermittently located on the top floor

for sending broadcast signals through the air and broadcasting the sound using an FM transmission (Figure 2). Herzfeld further teaches that various transmitter units are set to transmit as different frequencies (column 3, lines 3-28) . It would have been obvious to modify Higgs by using the sound system of Herzfeld in order to provide clear perception to all vehicles (column 4, lines 14-22).

Regarding **claim 66**, Higgs as modified by Braun and Herzfeld discloses wherein said short range radio sound system enables movie-goers on said top parking level to listen to movies on pre-selected channels in their own cars, and wherein said sound system comprises multiple transmitters intermittently located on said top parking level, for sending broadcast signals through the air (Higgs, Figure 6, Herzfeld, column 4, lines 14-22).

Regarding **claim 67**, Higgs as modified by Braun and Herzfeld disclose wherein each transmitter has an effective service range that is capable of reaching more than a single car, but does not exceed maximum allowed distance for unlicensed use. Herzfeld further teaches that various transmitter units are set to transmit as different frequencies (column 3, lines 3-28).

Regarding **claim 68**, Higgs as modified by Braun and Herzfeld discloses wherein a control mechanism for controlling, adjusting the frequencies of the signals transmitted by said transmitters is provided, wherein said control mechanism is adapted to adjust transmitters at different location to different frequencies, to ensure that any one transmission by any one transmitter does not exceed the maximum transmission distance allowed for unlicensed use. Herzfeld further teaches of a control mechanism



for controlling, adjusting and setting the frequencies of the signals transmitted by said transmitters (column 3, lines 3-28).

Regarding **claim 69**, Higgs as modified by Braun Herzfeld discloses wherein said top parking level of said parking garage is divided into a plurality of areas, wherein each area has at least one transmitter capable of operating at a different frequency (See Higgs and Herzfeld as applied above to claims 65 and 66).

Regarding **claim 70**, Higgs as modified by Braun Herzfeld discloses wherein said screen extends upward from a peripheral edge of said parking garage, such that the back side of said screen faces away from the top parking level and away from said second building. All elements of claim 60 are comprehended by the rejection of claim 51 (see Higgs as applied above).

Regarding **claim 78**, Higgs as modified by Braun discloses a sound system (Higgs, page 3 of article).

Higgs fails to explicitly disclose a short range radio sound system with at least on transmitter provided on said top parking garage, to provide sound for vehicles parked on said top parking level, wherein said system is adapted for use in connection with a drive in movie theater located on said parking garage, and wherein said short range radio sound system is adapted so that only cars located on or substantially near said top parking level of said parking garage are able to receive transmissions from said transmitters.

Herzfeld discloses a short-range radio information system (column 4, lines 14-24) and an outdoor theater system (Figure 1) including a control means (variable

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inductance coil; Figures 1 and 5; column 3, lines 3-28) that controls the frequency adjustment of transmitters. Herzfeld discloses additionally that the sound system comprises multiple on or above ground transmitter intermittently located on the top floor for sending broadcast signals through the air and broadcasting the sound using an FM transmission (Figure 2). Herzfeld further teaches that various transmitter units are set to transmit as different frequencies (column 3, lines 3-28) and wherein said short range radio sound system enables movie-goers on said top parking level to listen to movies on pre-selected channels in their own cars, and wherein said sound system comprises multiple transmitters intermittently located on said top parking level, for sending broadcast signals through the air (Higgs, Figure 6, Herzfeld, column 4, lines 14-22). It would have been obvious to modify Higgs by using the sound system of Herzfeld in order to provide clear perception to all vehicles (column 4, lines 14-22).

8. **Claims 64** are rejected under 35 U.S.C. 103(a) as being unpatentable over Higgs (Higgs (Extensions to and Refurbishment of Menlyn Park Shopping Centre, Pretoria) as applied above to claims 61 (August 2000, see pg. 14 of source code) and Braun (US 6,414,789) as applied to claim 61 above in view of Allen (U.S. Patent 3,422,581).

Regarding **claim 64**, Higgs as modified by Braun fails to disclose multiple inclined spaces on which cars can be parked for viewing said screen. However, this concept was well known in the art as taught by Allen. Allen discloses a drive-in theater having multiple inclined spaces (Figure 4; column 2, lines 40-55). Thus it would have

been obvious to modify Higgs as modified by providing inclined parking spaces in order to provide unimpeded line-of-sight for each vehicle.

9. **Claims 71 and 77** are rejected under 35 U.S.C. 103(a) as being unpatentable over Higgs (Higgs (Extensions to and Refurbishment of Menlyn Park Shopping Centre, Pretoria) (August 2000, see pg. 14 of source code) as applied to claim 61 and 74 above and Braun (US 6,414,789) as applied to claim 61 and 74 above in view of Foster, Jr. et al. (US 3,040,913).

Regarding claims 71 and 77, Higgs as modified by Braun discloses a second building section (tent area that houses the projector, Figure 6) and that it extends from parking garage. Higgs as modified by Braun fail to disclose that the second building is built into the parking garage and made with walls and floors that are made of materials similar to said parking garage. Foster discloses a parking garage having a building section (13 and 14, figure 1) that is part of the parking garage and made with walls and floors and made of materials similar to the parking garage (Figure 1, column 3, lines 5-25). It would have been obvious to modify Higgs as modified by Braun so that the second build is built into the parking garage, and made of similar materials in order for it to provide protection for the projector against environmental hazards, i.e. weather by housing it in a secure structure.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devona E. Faulk whose telephone number is 571-272-7515. The examiner can normally be reached on 8 am - 5 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 571-272-7848.

The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2615. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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